

AMENDED IN ASSEMBLY APRIL 15, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2652

Introduced by Assembly Member Bates

February 20, 2004

An act to add Section 25550.5 to the Public Resources Code, and to add Section ~~563~~ 1003.6 to the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2652, as amended, Bates. Electricity: Repowering powerplants.

The Public Utilities Act imposes various duties and responsibilities on the Public Utilities Commission ~~with respect to the purchase of electricity and requires the commission to review and adopt a procurement plan for each electrical corporation.~~ *and prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require that construction.*

This bill would ~~provide that in approving an electrical corporation's procurement plan, the commission would require that an electrical corporation consider repowering facilities, as defined, as a priority means to meet its procurement plan requirements if the repowered facility meets environmental and efficiency standards established by~~

~~the commission, in consultation with the State Energy Resources Conservation (Energy Commission) and Development Commission and the Independent System Operator. The bill would require that an electrical corporation give first consideration for long term and medium-term electricity procurement contracts to a repowered facility that reduces transmission congestion, resulting in cost effective delivery of electricity on behalf of ratepayers. The commission would be required to expedite regulatory review and approval of any redeveloped facility~~ *require the commission to expedite regulatory review and approval of repowering facilities, as defined*, including the issuance of any necessary certificate of public convenience and necessity.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the Energy Commission and requires it to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide. The act grants the Energy Commission the exclusive authority to certify any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. The exclusive certification authority extends to a change or addition to an existing facility. Existing law required that the Energy Commission, until January 1, 2004, establish a process of expedited review for projects for the repowering of thermal powerplants and to give first priority to projects that demonstrated superior environmental or efficiency performance improvements.

This bill would require the Energy Commission to establish a process of expedited review for projects for the repowering, as defined, of thermal powerplants and to give first priority to projects that ~~demonstrated~~ *demonstrate* superior environmental or efficiency performance improvements.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25550.5 is added to the Public
- 2 Resources Code, to read:
- 3 25550.5. (a) Notwithstanding subdivision (a) of Section
- 4 25522 and Section 25540.6, the commission shall establish a



process for expedited review and issuance of its final decision on an application for certification for the repowering of a thermal powerplant and related facilities within 180 days after the filing of the application for certification that, on the basis of an initial review, shows that there is substantial evidence that the project or facility will comply with all applicable standards, ordinances, regulations, and statutes, including the requirements of this section. For purposes of this section, filing has the same meaning as in Section 25522.

(b) The repowering of a thermal powerplant and related facilities reviewed under this process shall satisfy the requirements of Section 25520 and other necessary information required by the commission by regulation, including the information required for permitting by each local, state, and regional agency that would have jurisdiction over the proposed repowering of a thermal powerplant and related facilities but for the exclusive jurisdiction of the commission and the information required for permitting by each federal agency that has jurisdiction over the proposed repowering of a thermal powerplant and related facilities.

(c) After an application is filed under this section, the commission shall not be required to issue a final decision on the application within 180 days if it determines there is substantial evidence in the record that the thermal powerplant and related facilities does not comply with an applicable standard, ordinance, regulation, or statute, including this section. Under this circumstance, the commission shall make its decision in accordance with subdivision (a) of Section 25522 and Section 25540.6, and a new application shall not be required.

(d) For an application that the commission accepts under this section, any local, regional, or state agency that would have had jurisdiction over the proposed thermal powerplant and related facilities, but for the exclusive jurisdiction of the commission, shall provide its final comments, determinations, or opinions within 100 days after the filing of the application. The regional water quality control board, as established pursuant to Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code, shall retain jurisdiction over any applicable water quality standard that is incorporated into any final certification issued pursuant to this chapter.

1 (e) The repowering of a thermal powerplant and related
2 facilities that demonstrate superior environmental or efficiency
3 performance improvement shall receive first priority in review by
4 the commission.

5 (f) With respect to the repowering of a thermal powerplant and
6 related facilities reviewed under the process established by this
7 chapter, it shall be shown that the applicant has contracted with a
8 general contractor and has contracted for an adequate supply of
9 skilled labor to construct, operate, and maintain the plant.

10 (g) With respect to a repowering of a thermal powerplant and
11 related facilities reviewed under the process established by this
12 chapter, it shall be shown that the thermal powerplant and related
13 facilities complies with all regulations adopted by the commission
14 that ensure that an application addresses disproportionate impacts
15 in a manner consistent with Section 65040.12 of the Government
16 Code.

17 (h) To implement this section, the commission may adopt
18 emergency regulations in accordance with Chapter 3.5
19 (commencing with Section 11340) of Part 1 of Division 3 of Title
20 2 of the Government Code. For purposes of that chapter, including,
21 without limitation, Section 11349.6 of the Government Code, the
22 adoption of the regulations shall be considered by the Office of
23 Administrative Law to be necessary for the immediate
24 preservation of the public peace, health, safety, and general
25 welfare.

26 (i) For purposes of this section, “repowering” means a project
27 or facility for the modification of an existing generation unit of a
28 thermal powerplant that meets all of the following criteria:

29 (1) The project or facility complies with all applicable
30 requirements of federal, state, and local laws.

31 (2) The project or facility is located on the site of, and within
32 the existing boundaries of, an existing thermal facility.

33 (3) The project will not require significant additional
34 rights-of-way for electrical or fuel-related transmission facilities.

35 (4) The project will result in significant and substantial
36 increases in the efficiency of the production of electricity,
37 including, but not limited to, reducing the heat rate, achieving
38 greater efficiency in the use of natural gas, achieving greater
39 efficiency in the use and discharge of water, and reducing air

1 pollutants emitted by the project, as measured on a per
2 kilowatthour basis.

3 SEC. 2. Section ~~563~~ 1003.6 is added to the Public Utilities
4 Code, to read:

5 ~~563. (a) The commission shall require that an electrical~~
6 ~~corporation give priority consideration to repowering facilities for~~
7 ~~the generation of electricity, as a priority means to meet its~~
8 ~~procurement plan requirements if the repowered facility meets~~
9 ~~environmental and efficiency standards established by the~~
10 ~~commission, in consultation with the State Energy Resources~~
11 ~~Conservation and Development Commission and the Independent~~
12 ~~System Operator. The commission shall require that an electrical~~
13 ~~corporation give first consideration for long-term and~~
14 ~~medium-term electricity procurement contracts to a repowered~~
15 ~~facility if the repowered facility reduces transmission congestion~~
16 ~~resulting in cost effective delivery of electricity on behalf of~~
17 ~~ratepayers.~~

18 1003.6. (a) The commission shall expedite regulatory
19 review and approval of ~~any repowered facility~~ *repowering*
20 *facilities*, including the issuance of any necessary certificate of
21 public convenience and necessity.

22 (b)

23 For purposes of this section, “repowering facilities” means a
24 project for the modification of an existing generation unit of a
25 thermal powerplant that meets all of the following criteria:

26 (A) The project complies with all applicable requirements of
27 federal, state, and local law.

28 (B) The project is located on the site of, and within the existing
29 boundaries of, an existing thermal facility.

30 (C) The project will not require significant additional
31 rights-of-way for electrical or fuel-related transmission facilities.

32 (D) The project will result in significant and substantial
33 increases in the efficiency of the production of electricity,
34 including, but not limited to, achieving greater efficiency in the
35 heat rate, reducing the use of natural gas, achieving greater
36 efficiency in the use and discharge of water, and reducing air
37 pollutants emitted by the project, as measured on a per
38 kilowatthour basis.